

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

Amendments to Chapter 3-126 (Interim)
Hawaii Administrative Rules

June 16, 2003

SUMMARY

1. §§3-126-4 and 3-126-5 are amended.

§3-126-4 Protest of an award. (a) A protest of an award shall be submitted in writing to the chief procurement officer or as otherwise specified in the solicitation, within five working days after the posting of the notice of award for solicitations pursuant to section 103D-302 or 103D-303, HRS; provided a protest following a debriefing pursuant to section 103D-303(h), HRS, shall be submitted in writing within five working days after the debriefing is completed. The provisions of section 3-126-3(c) and (d) to file a protest shall be complied with. Heads of purchasing agencies shall not proceed with the award upon receipt of a timely protest, and shall comply with section 3-126-5.

(b) Protest of an award pursuant to section 103D-304, 103D-305, or 103D-306 shall be submitted in writing by the protestor to the procurement officer, within five working days of knowledge giving rise to the protest; provided a protest following a debriefing pursuant to section 103D-304(k), HRS, shall be submitted in writing within five working days after the debriefing is completed.

- (1) A protest shall be filed in accordance with section 3-126-3(c) and (d), with supporting exhibits, evidence, or documents to substantiate the protest;
- (2) A decision shall be made by the procurement officer as expeditiously as possible after reviewing all relevant information, and shall be final. A decision issued in resolution of a protest shall contain the following:
 - (A) A statement of the action to be taken or resolution to the protest; and
 - (B) A statement that the decision is final and conclusive. [Eff 12/15/95; am and comp 11/25/02; am 7/3/03]
(Auth: HRS §§103D-202, 103D-701) (Imp: HRS §103D-701)

§3-126-5 Stay of procurements during protest.

When a protest has been filed pursuant to section 3-126-3 or 3-126-4, no further action shall be taken until the protest has been settled, unless the chief procurement officer makes a written determination, after consulting with the head of the purchasing agency, that the award of the contract is necessary to protect the substantial interests of the State. [Eff 12/15/95; am and comp 11/25/02; am 7/3/03]
(Auth: HRS §§103D-202, 103D-701) (Imp: HRS §103D-701)

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

Amendments to chapter 3-126, Hawaii Administrative Rules, on the Summary Page dated June 16, 2003 were adopted as interim rules at the Procurement Policy Board meeting on June 16, 2003. Pursuant to section 103D-202, HRS, these sections shall be issued by Procurement Directive and be effective until May 25, 2004.

These interim rules shall take effect ten days after filing with the Office of the Lieutenant Governor.

/s/
PHYLLIS M. KOIKE
Chairperson
Procurement Policy Board

/s/
RUSS K. SAITO
State Comptroller

APPROVED AS TO FORM:

/s/
Deputy Attorney General